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SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 12 February 1993, at 10 a.m.

Chairman: Mr. GARRETON (Chile)

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The meeting was called to order at 10 a.m.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING: PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT (agenda item 7) (continued) (E/CN.4/1993/15 and 77); E/CN.4/1992/9; E/CN.4/Sub.2/1992/16)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 8) (continued) (E/CN.4/1993/16; E/CN.4/1993/NGO/13; E/CN.4/1990/9/Rev.1)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 17) (continued) (E/CN.4/1993/69; E/C.12/1988/1; CCPR/C/2/Rev.3)

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (agenda item 18) (continued) (A/47/628)

1. Mr. LLANOS (Chile), speaking on agenda item 17, noted that, since the Commission's adoption of resolution 1992/14 on the status of the international human rights Covenants, 14 countries had acceded to the International Covenant on Civil and Political Rights and 11 to the International Covenant on Economic, Social and Cultural Rights, thus bringing the total number of States parties to those two instruments to 115 and 118 respectively. Those Covenants were therefore assuming increasing universal importance, and thought should now be given to a question that constituted an obstacle to their full implementation, namely, the reservations entered by certain States. In point of fact, reservations and human rights were contradictory concepts, since human rights were of an absolute nature whereas reservations enabled States to relativize their implementation. Furthermore, at present international law contained no provision governing the question of reservations, so that the situation varied from one instrument to the next, for no reservations of any kind could be made to certain instruments, such as the ILO Conventions, reservations of a general nature could not be entered in respect of others, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, whereas reservations could be made to other instruments, such as the Convention on the Elimination of all Forms of Discrimination against Women, providing they were not incompatible with their object and purpose. Moreover, certain instruments contained no clause concerning possible reservations and the matter was therefore governed by the relevant provisions of the Vienna Convention on the Law of Treaties, which were quite flexible. In such cases, the only restrictions on reservations concerned their incompatibility with the purposes and objectives of the instrument in question. Those criteria had been established in 1951 by the International Court of Justice in its decision concerning reservations to the Convention on the Prevention and Punishment of the Crime of Genocide and, since then, the fact that an instrument contained no provision concerning the possibility of reservations did not mean that they could not be made. The specificity of reservations that could be entered to instruments for the protection of human rights would therefore depend on the particular nature and content of those instruments. For that reason, they did not establish reciprocal obligations between States but imposed on each one

absolute obligations in respect of the individuals under their jurisdiction. The large number of reservations entered to the two Covenants limited the obligations assumed by States parties, the essential purpose of which was to protect the fundamental rights of individuals. An analysis of those reservations revealed that they affected the exercise of rights which could certainly not be regarded as superfluous or secondary and had resulted in the selective application of universal rights. Since it was convinced that full respect of human rights was indissolubly linked with the absence of reservations to the instruments in which they were embodied, Chile had, in 1990, withdrawn all its reservations to two instruments that were important from the standpoint of justice, namely, the United Nations Convention against Torture and the Inter-American Convention against Torture.

2. What could be done to ensure the complete implementation of human rights instruments? In his delegation's opinion, that could be achieved by means of the mechanism established under those instruments to monitor their application. The committees should therefore be given greater powers, as had been done in the case of the European Court of Human Rights, which had been declared competent to rule on the validity of reservations to the European Convention for the Protection of Human Rights and Fundamental Freedoms "taking into account its specific nature". In his capacity as depository for human rights instruments, the United Nations Secretary-General should also request States parties to reflect upon the substance of the reservations formulated in their instruments of ratification or accession. His delegation felt that perhaps the time had come for the Committees set up under the two international human rights Covenants to act more boldly and to limit the scope of certain reservations on the basis of the special nature of human rights instruments. In its opinion, that was the only way of giving real meeting to the preamble to the International Covenant on Civil and Political Rights, according to which States were under an obligation to promote universal respect for, and observance of, human rights and freedoms.

3. Mr. PANG Sen (China), speaking on agenda item 8, observed that, although the right to development had been recognized as an inalienable human right by an overwhelming majority of States, various obstacles still prevented its realization. The situation in a large number of developing countries was steadily deteriorating; the least developed countries accounted for one-quarter of all countries in the world, and hunger, disease and natural disasters continued to threaten the existence of more than one billion people.

4. The right to development was closely related to civil and political as well as economic, social and cultural rights, and its recognition was reflected in a country's efforts to build up a worthy spiritual and material civilization. Since the right to development was a collective human right, all Governments should ensure its realization by formulating development strategies appropriate to their domestic situations and ensuring respect for all universally-recognized rights by taking steps to promote democracy, improve the legal system and maintain social stability and order. The right to development was also an individual right, since the individual was the subject of the development process in which he should participate actively and be the main beneficiary. It was clear that the development of the individual and the development of a nation went hand in hand. Unfortunately, a number of obstacles were impeding the realization of the right to development; such obstacles were not only economic, namely, the existence of an unjust international economic order that was widening the gap between North and South, but also political since there still existed in the world various forms of colonialism, racism, foreign aggression

and occupation, violations of State sovereignty and territorial integrity, as well as interference in the internal affairs of other States. Relations between States should be based on the purposes and principles of the United Nations Charter since that would help to create a favourable international political environment for the realization of the right to development. Efforts should therefore be made in the economic field to establish a new world order so as to alleviate and gradually eliminate the factors that restricted the development of the developing countries. To that end, the practice of attaching political conditions to assistance to the developing countries should be ended.

5. There was also an obvious link between peace and development. Without a peaceful environment countries could not develop, and without development world peace remained fragile. It was only by promoting the development of the developing countries in the economic, social, cultural and other fields, completely eradicating poverty and backwardness, narrowing the gap between North and South and fundamentally changing the old unjust international economic order that true peace and stability could be achieved in the world and that the peoples of all countries could be guaranteed effective enjoyment of their rights. Moreover, the development of those countries would contribute to the prosperity and further development of the developed countries. The realization to the right to development would therefore be beneficial both for the developed countries as well as the developing countries, the ultimate goal being the development of all countries and the universal realization of the fundamental rights and freedoms of all mankind.

6. His delegation expressed the hope that all members of the international community and relevant United Nations bodies would join their efforts to strengthen international co-operation and create conditions conducive to the early attainment of the objectives embodied in the Declaration on the Right to Development. China, for its part, was prepared to make its contribution to that end.

7. Mr. NZEYIMANA (Burundi) said that his delegation associated itself fully with the views expressed by a number of delegations on agenda items 4, 5, 6, 9, 15, 16 and 27. In particular Burundi reaffirmed its support for all peoples, and especially the Palestinian people and the South African people, struggling to exercise their right to self-determination. It also strongly condemned the serious violations of human rights that were being committed in all the territories of the former Yugoslavia and would support any measures that might be taken to put an end to that situation.

8. Generally speaking, it was important for the credibility of the Commission that all its member States should have the courage to be objective by establishing equal criteria for all countries and all peoples, and that they should look beyond their national interest so that human rights were respected everywhere in the world. It would be well, as had been stated by Mr. Dan Quayle, the former Vice-President of the United States at the Commission's forty-eighth session on 10 February 1992, referring to his own country, that no State should hesitate to tell the truth should human rights violations be committed against anyone anywhere. His delegation reaffirmed Burundi's complete and irreversible commitment to the cause of human rights. The situation in his country had developed in the right direction during the past four years. A democratic political and institutional framework, created essentially by a Charter of National Unity and a Constitution which would act as the nursery for the democratic process, had gradually been established. At the

same time the Government had ratified a number of international human rights instruments, and in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Moreover, in April 1992 it had established a centre for the promotion of human rights that would stimulate awareness of human rights through teaching, education and research. The introduction of political pluralism had also promoted freedom of opinion and expression, and a National Communications Council, an independent body responsible for ensuring press freedom, had even been set up under a Law of November 1992. A refugee repatriation programme had so far enabled 30,000 persons to return to their homes. Lastly, Burundi's democratic progress would be crowned by the organization, in November 1993, of presidential, legislative and local elections, supervised by foreign observers. That new political and institutional environment, which was to be supplemented by greater participation of members of society, was one of the results of the efforts made to establish democracy and create universal awareness of human rights in the country. Nevertheless, Burundi realized how much had yet to be done to ensure absolute respect for international norms concerning the protection of human rights.

9. His delegation had already had occasion to refer in the Commission to the bloody events of November 1991 that were attributable to a marginal fringe of extremists, whose activities were unacceptable in a country where there was a national consensus regarding institutional policies and national unity. It wished to assure the Commission that, with the aid of Burundi's League for Human Rights and Bar Association, the persons detained following those events would be provided with appropriate assistance. In his capacity as a lawyer, he himself was familiar with a large number of those cases and was prepared to provide more detailed information on the matter to any delegation at its request. Those events had demonstrated that universal awareness of human rights entailed education of the population, particularly in respect of the principle of the presumption of innocence. He added that the domestic judicial system was being reformed to bring it into line with international norms, and it was to be hoped that new regulations would be adopted concerning police custody, preventive detention and the right to defence. It was also planned to establish a national institute for the defence of human rights in the light of the conclusions of the Rencontres Internationales on national institutions for the promotion and protection of human rights, held in Paris from 7 to 9 October 1991. His delegation hoped that the Commission at its present session would adopt the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms.

10. Burundi's commitment to the protection of human rights was based on a global view of those rights. In that connection his delegation was gratified that it was being increasingly recognized in the Commission that human rights were interdependent and indivisible. It was worth remembering that article 6 of the Declaration on the Right to Development stated that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights. Yet it would seem that so far the Commission had tended to treat the relationship between human rights of various kinds as a marginal matter. Lack of development did not, of course, justify failure to respect human rights and particularly those to which no derogation was possible, such as the right to life, but it was obvious that individuals could exercise their civil and political rights fully only if their economic, social and cultural rights had been realized.

11. Be that as it may, violations of human dignity and life, whether the result of violations of civil and political rights or the denial of economic, social and cultural rights, all had the same effect. Care must therefore be taken to ensure the realization of all the rights embodied in the two international Covenants, and it was for that reason, that the Commission should pay greater attention to economic, social and cultural rights. The report of the Special Rapporteur on the realization of economic, social and cultural rights revealed that one billion persons in the world lived in absolute poverty, that 180 million children suffered from malnutrition, that 1.5 billion persons were without basic health care and drinking water, that 2 billion persons did not have decent accommodation and that one billion adults could neither read nor write; that situation, according to the Special Rapporteur was becoming worse.

12. That state of affairs, which constituted a challenge to human progress and international solidarity, called for the rapid implementation of the recommendations contained in the report that were addressed to States, as the entities previously responsible, the United Nations specialized agencies, international financial institutions and non-governmental organizations. His delegation also hoped that Sub-Commission resolution 1992/27 on human rights and extreme poverty would also be implemented. Lastly, he was in favour of the establishment of a group of experts to draw up more concrete recommendations so as to enable the Commission to tackle in greater detail the various aspects of the question of the realization of economic, social and cultural rights.

13. Referring to agenda item 8 on the right to development, he said that his delegation had taken note of the Secretary-General's report (E/CN.4/1993/16) with great interest. It considered that the Commission could play a vital role in that field by inviting States to take account of the objectives of the Declaration on the Right to Development in their economic planning policies. It also supported the suggestion contained in the Secretary-General's report that a special rapporteur should be appointed to analyse the position with respect to the application of the Declaration on the Right to Development as well as the recommendation for the establishment of a high level committee consisting of independent experts that would report each year to the General Assembly through the Economic and Social Council on the progress made in the implementation of the Declaration at the national and international levels.

14. His delegation would like the Commission's Preparatory Committee to draw up, under the heading of the right to development and the realization of economic, social and cultural rights, a set of specific measures to be submitted to the forthcoming World Conference on Human Rights. A resolution of the Commission was, in his view, needed in that respect.

15. Mrs. HEVESI (Observer for Hungary) said that the elaboration of the international human rights treaty system constituted one of the major achievements of the United Nations since, in 1945, with the adoption of the Charter, the international community had pledged itself to promote universal respect for and observance of human rights without distinction as to race, sex, language or religion.

16. It was encouraging to note that an increasing number of countries were becoming parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as well as to other legally binding conventions that protected specific human rights and

fundamental freedoms. Several countries had recently acceded to or ratified the Conventions and had also become parties to the First Optional Protocol to the International Covenant on Civil and Political Rights under which communications could be addressed by individuals to the Human Rights Committee when they considered that one of their rights embodied in the Covenant had been violated in their country. However, of the 180 States Members of the United Nations, only 118 and 115 respectively had become parties to the Covenants. The appeal formulated in Commission resolution 1992/14 calling on the countries concerned to ratify them without delay should therefore be repeated.

17. Consideration of the status of the international human rights Covenants was inevitably linked with the problem of the reservations made to provisions of various human rights treaties, and particularly those which were obviously incompatible with the objective of those treaties, thereby calling in question the determination of the states concerned to respect fully the obligations they had assumed. The streamlining and improvement of reporting procedures constituted another important element in the effective implementation of treaties since the reports submitted reflected how Governments were fulfilling their obligations. Her delegation also attached particular importance to the task of making the operation of the treaty monitoring system more coherent and efficient. The fact that there was considerable duplication between the inquiries made by one committee and those made by another suggested that co-operation between various treaty bodies could be improved. The unsatisfactory flow of information between committees imposed an unnecessary extra burden on Governments and delayed the submission of reports. It would therefore be desirable that treaty bodies should make better use of the core documents that had already been submitted to them. In that connection, institutionalization of meetings of the chairpersons of international human rights treaty bodies constituted considerable progress towards achieving better co-ordination between the bodies concerned and more effective operation of the treaty monitoring system as a whole.

18. The shortcomings of the system should not, however, be used by Governments as a pretext to submit their reports late or not at all. In that context, her delegation welcomed the fact that an increasing number of treaty monitoring bodies were considering the situation in States parties that had not submitted a report. The developing practice of requesting States parties for additional information, particularly in cases of massive violations of human rights, should also be encouraged. The publication of consolidated reporting guidelines and of a detailed manual on reporting procedures had recently been followed by the preparation of a compilation of general comments and recommendations to which Governments should refer in formulating their human rights policies. The decision taken by the Human Rights Committee to formulate written conclusions was a most welcome innovation which should be followed by other treaty bodies. Her delegation strongly supported the idea that the study on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations human rights instruments, prepared in 1989, should be updated, revised and submitted to the World Conference on Human Rights, particularly because one of the declared aims of the Conference was to examine ways and means of improving the implementation of existing human rights standards and instruments.

19. The Hungarian delegation was still concerned about the servicing of treaty monitoring bodies, since the resources allocated were not keeping pace with increasing requirements owing to the growing number of States parties to various instruments. The World Conference on Human Rights should therefore take the

necessary steps to ensure that the lack of adequate human and material resources did not prevent human rights machinery from functioning properly and effectively. In Hungary's opinion, it was most important that the Committee on the Elimination of Racial Discrimination, as well as the Committee against Torture, should be financed on a more reliable basis. States should accordingly make sure that they paid their contributions in time until the necessary changes had been made.

20. Lastly, thought should be given to the functioning of treaty monitoring bodies in a broader context. Interaction should be strengthened not only between those bodies but also between them and United Nations organs as a whole. The experience acquired as a result of discussions in treaty monitoring bodies should be used to greater advantage in the context of preventive diplomacy and for early warning purposes. That was a point which certainly deserved further study.

21. Mrs. BAUTISTA (Observer for the Philippines) warmly welcomed the Secretary-General's report (E/CN.4/1993/16) that contained concrete proposals for the effective implementation of the Declaration on the Right to Development. Her delegation shared the concern expressed in the report concerning the obstacles to the implementation of the Declaration and particularly the problems faced by countries burdened with a heavy foreign debt. The difficulties being encountered by developing countries which, like the Philippines, wished to honour their debt obligations fully should not be underestimated. The debt burden of the Philippines was further compounded by the adverse effects of a series of natural catastrophes which had severely taxed the Government's capacity to cope with development needs. The Philippines, like other countries confronting the same problems, found it difficult to achieve the economic objectives on which social development and the promotion of human rights depended.

22. The concept of the right to development had evolved considerably since it had first been discussed in the Commission. The Philippines had participated actively in many of the international and regional meetings, such as the preparatory meetings for the World Conference on Human Rights and the negotiations leading up to the United Nations Conference on Environment and Development, which had embodied the right to development in conjunction with the protection of human rights in their declarations. At the preparatory meetings of the World Conference on Human Rights, her Government had supported the inclusion in the agenda of the Conference of item 10 on the consideration of the relationship between development, democracy and the universal enjoyment of all human rights. Sustainable development, as a concept and as a goal encompassing both environmental and development needs, had been discussed at the United Nations Conference on Environment and Development. The Philippines had consistently defended the rights of local populations, indigenous peoples and forest dwellers, namely, their rights as owners of biological resources and their rights to a decent livelihood.

23. The indivisibility of human rights, comprising civil, political, economic, social and cultural rights, had been emphasized by the heads of Government of the non-aligned countries which had met in Jakarta in September 1992. They had recognized that development and human rights were mutually supportive and that there was an imperative need for multilateral co-operation in implementing the socio-economic development programmes of the non-aligned and other developing countries.

24. In recognition of the direct link between development and human rights and to reaffirm its commitment to the protection of human rights, her Government had accorded top priority to the alleviation of poverty. Poverty alleviation measures had been integrated in previous development plans and further strengthened in the present government's programmes. A human development charter had also been included in the medium-term development plan of the Philippines. The President of the Philippines, who was aware that participation was at the heart of the right to development, had called upon the people to take an active part in the war against poverty. The Government had also attached priority to the advancement of peace and national reconciliation, and to that end had established a National Unification Commission which was actively pursuing talks with opposition groups. The restoration of security and stability was necessary for the full implementation of development programmes. Social and economic reforms went hand in hand and the protection of human rights was interrelated with economic and social development. Those interrelationships were now universally recognized and her Government had used them as a basis for its development programme and human rights protection activities at the national, regional and international levels.

25. Mr. LAVENERE-MACHADO (International Federation of Human Rights) said he wished to draw the Commission's attention to violations of a crucial provision of the Declaration on the Right to Development, namely, article 6, paragraph 3, according to which "States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights". One of those obstacles in Brazil was forced labour. It was practised systematically and in a recurrent manner, and called for immediate action on the part of the Brazilian Government. Forced labour in Brazil's rural areas was not a recent practice since it had been initiated in 1964 when the military had attracted large enterprises to Amazonia by means of a tax relief policy. But despite the stirrings of democracy in Brazil in recent years forced labour was still practised in several regions, including the developed States in the southern part of the country, even though it had been condemned on several occasions by various United Nations bodies.

26. He said that, in his capacity as President of the Federal Council of Brazil's Bar Association, he had promoted, together with the Attorney-General of the Republic and various organizations, the establishment of a Forum to combat Rural Violence which was at present participating actively in efforts to curb violence and impunity in the rural areas. The Forum had accorded top priority to efforts to put an end to forced labour in 1992. Brazil's Bar Association regretted that those efforts, made jointly with state bodies, had done nothing more than to bring the situation to the attention of top government circles and to reveal how slowly and inefficiently the authorities took action in the matter.

27. The way in which forced labour, which was a modern form of slavery, was practised was that major landowners or agricultural enterprises asked small labour subcontractors to recruit landless rural labourers by promising them attractive salaries and good working conditions. The reality was quite different. The unfortunate labourers working on those agricultural enterprises became caught up in an extremely brutal system (inadequate food, inhuman working conditions, makeshift housing, risk of disease, threats, humiliation and various forms of punishment). Enmeshed in the coils of perpetual indebtedness, they never received their wages. If they tried to flee they were beaten, imprisoned and killed. The Land Commission had determined that, during the previous four years, 23,147 persons had become victims of that system. It was only through

the evidence provided by those who had succeeded in fleeing and had had the courage to talk about such practices that it had been possible to evaluate the magnitude of the scourge. The reality was inevitably much worse than could be imagined. The Federal Government had so far done very little either to curb or prevent the practice (abortive police investigations and trials at which those really responsible were not held to account). On the other hand, the Ministry of Labour of the new Federal Government had recently condemned the forced labour practiced in the commune of Cidreira and, for the first time, the owner of the enterprise in question had been arrested pursuant to a judicial decision. But although the Brazilian criminal code and several of the conventions ratified by Brazil condemned forced labour, the practice still remained unpunished in general. The legal means of action were there but the political will was lacking. The practice of forced labour in Brazil revealed how vast was the amount of land concentrated in the hands of a few persons, the percentage being one of the highest in the world. Six million landless peasants were waiting for the agrarian reform to be carried out but the major landowners constituted a political force of such proportions that they were in a position to prevent its implementation.

28. Furthermore, the fact that 60 million Brazilians lived in absolute poverty was merely the natural consequence of the policy imposed on Brazil by international financial institutions. Brazil's debt to those institutions and the recessionary economic policy that they imposed on the country had become the main cause for the veritable social apartheid that prevailed in the country. His Federation therefore called upon the Commission to take into consideration, in the light of the situation of Brazil's peasant slaves, the implications of economic policies for the respect of human rights.

29. Mr. FAVRE (International Federation of Rural Adult Catholic Movements) said that his organization was the spokesman for rural adult Catholic movements in about 40 countries, most of them developing countries, that wished to condemn serious violations not only of the right to an adequate level of living but also of the right to be spared the pangs of hunger. How had the present situation come about? An enquiry conducted by the International Fund for Agricultural Development (IFAD) revealed that a rapid and general decline in rural development had been taking place during the previous 20 years. Rural poverty was increasing sharply practically throughout the world. Among the causes of that impoverishment, the most important was invariably the slowness of the State to maintain or create viable rural regions or communities capable of meeting their own needs and supplying domestic markets. The peasants felt themselves abandoned and marginalized, since the State had abandoned its agrarian reform projects designed to bring about a fair redistribution of land and had left public works projects unfinished while at the same time it allowed transnational corporations to monopolize its resources and permitted large landowners to extend their holdings. The resignation or complicity of the State and unauthorized privatization were the main immediate causes of the deterioration of the situation of rural inhabitants and even of the negation of the right to live in rural areas.

30. That disastrous situation was aggravated by the restrictions imposed on States by IMF and the World Bank which, according to the report of the Sub-Commission's Special Rapporteur (E/CN.4/Sub.2/1991), had such an impact on the most vulnerable segments of society that they seriously violated their fundamental rights, as was the case in Africa south of the Sahara and in Latin America in particular. Moreover, it was too easy to blame natural disasters which, in most cases, were attributable to economic activity, namely,

the establishment of industries or intensive agriculture aimed at immediate profit to the detriment of the environment and the population (extensive deforestation, soil exhaustion, disruption of seasonal equilibrium which reduced the area of arable land and drinking water and firewood resources). Moreover, how could sustainable development, entailing the participation of the entire rural population, be achieved when ethnic conflicts broke out and in some cases degenerated into civil wars fomented by religious fanaticism?

31. Yet in the face of those situations men and women in rural areas were taking action, aware that sustainable development was possible if it was in the interest of all and if it was organized by them in the light of their needs, their culture and their know-how, and respectful of their vital environment. That was proved by documentary evidence from Chad, Mexico, India, Madagascar and Haiti, which he read out. His organization's experience offered convincing proof that the right to development and its realization inevitably implied the right to organize democratically, so that the principal agents in the process were men and women working together.

32. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) said it was becoming increasingly obvious that sustainable development and true democracy were impossible without education, which was the catalyst of economic and social progress; the right to education was truly a fundamental right. Reference to article 13 of the International Covenant on Economic, Social and Cultural Rights revealed that the right to education comprised several elements. There was, first of all, the right to education proper, which should be realized through the gradual introduction of free schooling, the development of a system of schools and the improvement of the material conditions of teachers; secondly, there was the right to freedom of education, which comprised the right of parents or legal guardians to choose for their children schools other than those provided by the authorities, as well as the right to provide their children with religious education in accordance with their beliefs and the right of natural or legal persons to establish and run schools. Most studies tended to neglect that right to freedom of education and it was striking that, in many countries, even those with a long democratic tradition, education was the monopoly or virtually the monopoly of the State at the present time. Freedom of education implied freedom of thought and the right of each one to choose their teacher. That right should be a right for all, not subject to any ideological or economic discrimination. For that reason, it was vital that schools other than public schools should be free of charge and, consequently, financed by the State.

33. Mr. OZDEN (Centre Europe-Tiers Monde) observed that a large number of non-governmental organizations had censured the catastrophic results that IMF structural adjustment programmes had had for populations who were suffering the consequences, in the South as well as in the East. In point of fact, IMF was neither an international service nor an arbiter, but rather the lawyer of creditors which as such instituted proceedings. Yet contrary to private law a debtor which, in the present case was a State, could not declare bankruptcy. States which had dared to do so had been threatened with dire consequences, the offensive being orchestrated by IMF. IMF's real role was not to help those countries to reduce their debt nor to save them from bankruptcy; it was to place them under virtual guardianship, by transforming irrecoverable debts into debentures so as to ensure the service of such debts for ever.

34. In view of the steady deterioration of the situation, his organization, like many other non-governmental organizations, considered that the only valid solution would be to cancel those debts. Indeed, in the absence of radical changes in the terms of trade which governed international commerce and North-South relationships, it was completely illusory to believe that the debts of the poor countries could be absorbed or simply reduced. They must therefore be cancelled, but if that was done who would bear the cost? The reply to that question raised that of the legitimacy, not of the overall debt in itself but of each of the debts comprising the total. In other words, the problem was one of co-responsibility and risk sharing. In that connection, his organization considered that what had to be done first before any repayment obligation was established was to determine the legitimacy of the credits advanced, the identity and liability of the debtors and creditors and also the origin of the capital loaned (the proportion wasted, commissions to dictatorships, bribes, misappropriation of funds, fraudulent projects, etc.); such audits could be carried out by independent bodies. Secondly, on the basis of the information collected and in the framework, for example, of the Hague Court, a Commission should be set up to determine the responsibility of banks, States, enterprises, etc. for the loans granted, the origin of the capital initially lent what had happened to the capital that had disappeared. Thirdly, the foreign assets of the leaders of the indebted countries which, according to certain estimates, accounted for between one-third and two-thirds of the total debt (it would be up to them to prove that they became wealthy legitimately) should be frozen. Lastly, the gimmicks and tax breaks that had enabled Western banks to make good their losses should be investigated.

35. In that way it would be possible to determine what proportion of the debt was legitimate and cancel the public proportion of it. As for private creditors, be they large banks or, increasingly, private enterprises which had granted loans or credits thoughtlessly, it was time, in his organization's opinion, that they should be asked to practice what they had preached: since they were always singing the praises of free market forces they should logically admit the principle of risk sharing which implied that, when a debtor was insolvent, they should simply write off the balance of the debt.

36. Mr. KAMEYA (Centre Europe-Tiers Monde), speaking on agenda item 8, said that Rwanda, which was often made out to be a wonderful country, was also among the five poorest countries in the world. The people of Rwanda had a life expectancy of 50 years and development had passed them by. Production of foodstuffs was declining since the area under cash crops was being increased and foreign capital was making a tiny minority wealthy. The result was famine and dependence, and food aid from the European Community countries had become indispensable. Industry remained at an embryonic stage and employed only 3 per cent of the population. Furthermore, the people could hardly expect development to take place when crime and corruption were current, elementary rights were being flouted every day and the regimes which had been in power since the 1959 revolution had institutionalized arbitrary measures and totalitarianism. The socio-ethnic revolution had triggered a cycle of unprecedented violence, and entire communities had been massacred. Moreover, the initial findings of the International Commission of Enquiry which had visited Rwanda from 7 to 21 January 1992 had been damning. His organization therefore called upon the Rwandese Government and the Rwandese Patriotic Front to resume negotiations and urged the United Nations to use its influence to bring about a peaceful settlement to the conflicts that were racking the country and seriously jeopardising its development. In conclusion, he recalled that the French Government had intervened by sending troops to Rwanda to support a

regime which, for two years, with its militia and death squads, had been organizing the extermination of part of the population.

37. Mr. DILLOWAY (International Humanist and Ethical Union) said that if the importance of the question of economic, social and cultural rights was to be properly grasped, it had to be realized that the economic system, the type of government and the natural and social environment were closely interrelated, and in point of fact constituted various aspects of human development. Since the study of human rights had so far been confined to the legal sphere, that fact had been overlooked and human rights had generally been studied separately.

38. Furthermore, anyone familiar with objective economic analyses knew that the world economy was not working, and had been declining at least since October 1973, and would not start working properly again in the coming years unless it was radically reformed. For over 10 years both extreme wealth and extreme poverty had been increasing in the so-called developed countries, as well as in the rest of the world. What had become apparent at the present time were the disastrous effects that the "new order" - based on minimal common concern and therefore on minimal respect for human rights - had had on individual and collective behaviour, both in the developing as well as in the advanced countries. Co-existence was based on respect for elementary rights, and it was therefore vital, in respect of economic and social rights, that essential services should remain the responsibility of the public sector. That principle was generally accepted in connection with the so-called "defence" sector, but in point of fact it was just as valid in respect of services designed to meet common basic requirements. It was for the Commission on Human Rights, in considering what States had achieved in the sphere of economic, social and cultural rights, to examine how far human rights criteria were explicitly taken into account in the formulation of national socio-economic systems.

39. Mr. KIRKYACHARIAN (Movement Against Racism and for Friendship among Peoples) said he had very clear cut-views on the question of the right to development and its realization, and he considered that there was a direct relationship between the growing North-South imbalance, the development of racism and the form assumed by the world process of exclusion. For that reason, the lagging economic and social development of the countries of the South had to be speeded up, since further migratory pressures, discussion of the right to asylum and the relatively clear distinction made between political and economic refugees suggested the nature of the problems that would arise in future; if no changes were made nothing would stop the hungry of the world who would brave the worst possible dangers in order to reach the countries where people ate their fill.

40. That could be avoided in two ways. Above all, the haemorrhaging caused by the payment of interest on debts had to be stanched, since a large number of studies had revealed that the amount of such interest was greater than proceeds from foreign trade; the loans granted therefore contributed to the impoverishment of the countries in question. Furthermore, as a result of the boomerang effect described by the writer Susan George, the system tended to upset the balance of the economies of the wealthy countries themselves by emphasizing unproductive financial profits to the detriment of productive investments. The merit of that analysis was, moreover, that it revealed objective solidarity between the miserable masses of the South and the poor of the North.

41. Furthermore, it would be possible in the long run to make headway in another respect by raising commodity prices. It was easy, in present circumstances, to demonstrate that poppy or coca crops offered many peasants of the South possibilities of survival. There again the existence of a boomerang effect could be demonstrated, since the drug market was one of the specific characteristics of poverty in the North. Admittedly, the South would not take off economically by miracle. In view of the enormous transfer of wealth that had taken place over the past five centuries, a sort of counter-transfer had to be envisaged - of capital as well as know-how - the amount of which must be much greater than the percentage of the GNP that the United Nations recommended should be earmarked for development assistance. That percentage could, of course be used as a yardstick during the first stage which must, however, be followed by a second, consisting of a sort of worldwide Marshall plan. What was to be avoided was a programme in which the decisive criteria were the normal ones of return on investment, which were completely inappropriate in dealing with a problem that affected mankind as a whole. Action to put an end to the enormous waste of resources in the North and to curtail the lifestyles of the privileged classes would not affect the level of living of people there who derived no benefit thereby.

42. Mr. ARTUVIO (International Commission of Jurists) said he would endeavour first of all to identify two of the main obstacles that prevented an individual from enjoying his economic, social and cultural rights, namely, extreme poverty and the absence of democracy. It was known that extreme poverty was the root cause of innumerable evils in the health, education and labour spheres. Poverty and underdevelopment aggravated social inequalities, so that it should be emphasized that the right to development must be perceived not only in terms of economic growth and increased per capita income but above all in terms of the distribution of total income between the members of society and the quality of health care, education and living conditions. In his excellent report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/16), Mr. Danilo Türk, the Sub-Commissioner's Special Rapporteur, had identified a number of factors that had a negative impact on the exercise of those rights (structural adjustment, inadequate political will, military expenditure, etc.).

43. The International Commission of Jurists therefore hoped that the Commission would endorse resolution 1992/27 of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities concerning human rights and extreme poverty.

44. The relationship between development and democracy was evident since a democratic system was supposed to ensure social justice and participation of the people. The International Commission of Jurists hoped that the Commission would consider how violations of economic, social and cultural rights could be made punishable. The question was a delicate one but could not be evaded by the United Nations in future; a working group might be set up to study the matter.

45. His organization also wished to emphasize the need to improve international machinery intended to promote and protect economic, social and cultural rights. In his view, the possibilities of taking action available to the competent Committee should be increased, for unlike several other international instruments, the International Covenant on Economic, Social and Cultural Rights failed to recognize the right of individual remedy which enabled a victim or his representative to bring to the attention of an international monitoring body the fact that his rights had been violated; that was probably

because the Covenant had been adopted as long ago as 1966. The time had therefore come to extend the competence of the Committee set up under that Covenant and he accordingly recommended the addition of an optional protocol enabling individuals and groups to submit communications. The International Commission of Jurists was gratified that the Committee on Economic, Social and Cultural Rights had begun to allow non-governmental organizations to participate in its work. More efficient follow-up procedures should also be established, since the present procedure was inadequate to induce certain States to put an end to the violations of which they were accused; a change of that nature would not entail amendment of the Covenant. Moreover, it would be desirable for the advisory services of the Centre for Human Rights to assist the many States which had not yet done so to bring their domestic legislation into line with the provisions of the Covenant. Lastly, States parties appointing members of the Committee should try to ensure the independence of the experts they designated.

46. Mrs. BLOCH (Minority Rights Group) drew the Commission's attention to the economic, social and cultural situation in Tibet. The Tibetans, who had their own culture and traditions and were economically self-sufficient, were at present compelled to serve the interests of an alien people whose values and aspirations were entirely different from their own. Moreover, they were denied their economic, social and cultural rights by Chinese officials who had never set foot in Tibet and who only too often regarded the people of that country as backward or barbarians. Decisions about the economy were not made in the light of the needs or desires of Tibetans but in keeping with the ideological priorities of the Chinese Communist Party. The administrative officials were from the People's Republic of China and administrative matters were conducted essentially in Chinese, a language with which 90 per cent of the Tibetan population were unfamiliar.

47. In May 1992 the Chinese Government had decided to create a "special economic and technological zone", and although its decision had brought Tibet a little freedom it had also entailed the arrival of hundreds of thousands of Chinese settlers and entrepreneurs. Government subsidies and the projects carried out had almost exclusively benefited the Chinese who lived in the towns, whereas the Tibetan population lived mainly in the rural areas. In the space of 10 years, 96 per cent of private enterprises had passed into the hands of Chinese who, according to official figures, accounted for no more than 4 per cent of the population. Tibetan unemployment amounted to 17 per cent of the workforce, whereas the Chinese encountered no employment difficulties. The Chinese authorities had also announced their intention of launching "larger scale development" in Eastern Tibet, which was rich in natural resources. As China's mineral and non-ferrous metal resources were being depleted, it was easy to imagine what it would gain from those projects, although to the detriment of the health of the local population since the Chinese working in uranium mines thought nothing of allowing the water from their decontamination showers running directly into the rivers. Profits from the exploitation and sale of medicinal herbs and timber were also syphoned off to China.

48. The Chinese authorities deplored the lack of education and spirit of enterprise of the Tibetans, but whose fault was that? For over 30 years China had kept a tight hold on Tibet and it was well known that a large number of Tibetans in exile had become highly qualified. The truth was that Tibetans were forced to choose between abandoning their culture and traditions and adopting Chinese ways or being deprived of education and jobs. Neither cultural differences nor dissenting opinions were tolerated. And yet the right to development was not a right of the Government but of the people.

49. Mrs. ALA'Z (Bahá'i International Community) noted that the increasing disparity between the rich and the poor was a major destabilizing influence in the world. It produced or exacerbated regional and national conflicts, crime and violence, environmental degradation and the increasing use of illicit drugs. Extreme poverty effected all countries in the same manner, and just as in a family the suffering of any member was felt by all, no individual, as member of the single human family, could avoid feeling a sense of failure at the misery in the world.

50. Her organization considered that economic problems could be overcome and economic relations improved only if certain spiritual principles were respected and if mankind sought justice rather than the satisfaction of personal needs. Relations between the members of the great human family in the new economic order should be based on principles of equity and justice. Wealth and income should be distributed in such a way that both extreme wealth and extreme poverty were eliminated. The disadvantaged should be able to count on the assistance and support of social institutions and in the new order, as envisaged by the Bahá'i International Community, rights would be inseparable from responsibilities. A fundamental purpose of life was to contribute to the advancement of civilization, and it was with that goal in mind that the right to work should be realized. No one should be without work or reduced to begging. Work was a means of acquiring and developing man's spiritual dimension, and each community should identify its own needs and mobilize in order to attack the scourges which, like poverty, afflicted society.

51. In his report to the Sub-Commission (E/CN.4/Sub.2/1991/18), Mr. Eduardo Guescún Monroy had pointed out that extreme poverty was often compounded by the denial of a large number of rights guaranteed by the Universal Declaration of Human Rights. Her organization supported the Commission's request, expressed in resolution 1992/11, that the Sub-Commission on Prevention of Discrimination and the Protection of Minorities should study the question of human rights and extreme poverty and report to it at its forty-ninth session. It supported Mr. Leandro Despouy, Special Rapporteur on the question of human rights and extreme poverty and welcomed the proclamation, in 1992, by the General Assembly at its forty-seventh session, of an International Day for the Elimination of Poverty on 17 October.

The meeting rose at 1 p.m.